



**AMERICAN ACADEMY OF  
OTOLARYNGOLOGY–  
HEAD AND NECK SURGERY**

Statement of the  
American Academy of Otolaryngology-Head and Neck Surgery  
and the Connecticut Ear, Nose & Throat (ENT) Society  
to the  
Joint Finance, Revenue and Bonding Committee  
Regarding SB 1007  
March 3, 2011

The American Academy of Otolaryngology-Head and Neck Surgery (AAO-HNS) and the Connecticut ENT Society appreciate the opportunity to comment on the Governor's budget proposal (SB 1007). **We wish to convey our strong opposition to the cosmetic tax provision contained within SB 1007.**

The AAO-HNS represents more than 11,500 physicians in the United States who diagnose and treat disorders of the ears, nose, throat, and related structures of the head and neck, including approximately 160 members who live and practice in Connecticut. Otolaryngologist-head and neck surgeons are also commonly referred to as ear, nose, and throat specialists (ENTs). The medical disorders treated by our specialty are among the most common that afflict all Americans. They include hearing and vestibular disorders, speech and swallowing disorders, head and neck cancer, chronic ear infection, sinusitis, snoring and sleep apnea, facial and cranial nerve disorders, and cosmetic facial surgery.

We respectfully oppose the 6.25% medical cosmetic tax provision contained in Governor Malloy's budget proposal. Specifically, the proposed tax could create many practical, ethical, and economic consequences as noted below:

**Violates patient privacy.** This provision invites tax auditors into the exam room, threatening the physician-patient relationship and patient privacy rights. Enforcement would include tax audits of medical practices to determine whether procedures are considered elective and/or cosmetic. To date, enforcement of whether these procedures are deductible medical expenses focuses on individual treatments, and the burden of proof is placed on the patients and their physicians. However, the proposed tax provision would make the physician a tax collector and hold him/her liable for the taxable amount. Thus, audits would be directed at physicians who would need to prove whether or not procedures meet the definition. Presumably patient medical records, including photographs, would be involved in proving whether a procedure met the definition or not.

**Duplicates a failed State experience.** New Jersey is the only state to adopt a tax on elective medical procedures. In 2004, New Jersey passed a 6% tax on elective medical procedures, and since then, the New Jersey Department of Taxation has experienced a 59% shortfall based on projected revenue estimates. In fact, according to independent studies, for every \$1 New Jersey collects on the tax, the state loses

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\$3.39 in total revenue. As a result, New Jersey Assemblyman Joseph Cryan, the sponsor of the 2004 bill, is leading efforts to repeal the tax in his state and has communicated this experience to elected officials across the country.

**Sends patients outside the state.** As evidenced in New Jersey's failed state experience, patients will understandably seek medical care in the surrounding states that do not tax cosmetic procedures. Analysis of data from the American Society of Plastic Surgeons indicates just under \$160 million in cosmetic procedures were done in Connecticut in 2008. Based on the "surgical flight" that New Jersey experienced as a result of its cosmetic surgery tax, it is realistic to expect this figure may drop by more than half.

The AAO-HNS and the Connecticut ENT Society strongly urge members of the Committee to oppose the 6.25% medical cosmetic tax provision included in Governor Malloy's budget proposal. Thank you for the opportunity to comment. If you have any questions, please contact Shannon Morey, JD, AAO-HNS Program Manager for State Legislative Affairs, at 703-535-3794 or [smorey@entnet.org](mailto:smorey@entnet.org).